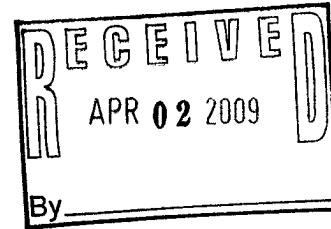


March 30, 2009

Mr. Ron Dutta
200 Fair Oaks Lane
Frankfort, Kentucky 40601



RE: Floodplain Certification
Devins Ditch Separation Project
Daviess County, Owensboro, Kentucky

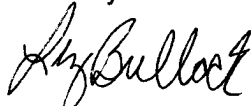
Dear Mr. Dutta:

Enclosed is the water quality certification/floodplain certification application for the Devins Ditch Separation Project in Owensboro, Kentucky. The purpose of this project is to reduce flooding at Carters Road and surrounding neighborhood and to separate stormwater overflow from the existing sanitary sewer network. The following materials have been included for your review:

- 404 Permit Application
- Exhibits - Vicinity Map
- Project area photos
- Preliminary JD Form

On February 19, 2009, the Corps of Engineers issued a Nationwide No. 27 Permit for this project (ID No. LRL-2008-1410-rjb). If you have any questions or need additional information, please feel free to contact me at 859-264-7500.

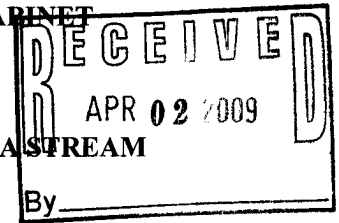
Sincerely:

A handwritten signature in cursive script, appearing to read "Liz Bullock".

Liz Bullock, P.E.

Cc: Adam Jackson
enclosures
07027

COMMONWEALTH OF KENTUCKY
NATURAL RESOURCES & ENVIRONMENTAL PROTECTION CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION
DIVISION OF WATER



APPLICATION FOR PERMIT TO CONSTRUCT ACROSS OR ALONG A STREAM
AND / OR WATER QUALITY CERTIFICATION

Chapter 151 of the Kentucky Revised Statutes requires approval from the Division of Water prior to any construction or other activity in or along a stream that could in any way obstruct flood flows or adversely impact water quality. *If the project involves work in a stream, such as bank stabilization, dredging or relocation, you will also need to obtain a 401 Water Quality Certification (WQC) from the Division of Water.* This completed form will be forwarded to the Water Quality Branch for WQC processing. The project may not start until all necessary approvals are received from the KDOW. For questions concerning the WQC process, contact the WQC section at 502/564-3410.

If the project will disturb more than 1 acre of soil, you will also need to complete the attached Notice of Intent for Storm Water Discharges, and return both forms to the Floodplain management Section of the KDOW. This general permit will require you to create an implement an erosion control plan for the project.

1. OWNER: Mr. Joe Schepers 19306A
Give name of person(s), company, governmental unit, or other owner of proposed project.
MAILING ADDRESS: Owensboro City Hall, PO Box 10003, Owensboro, KY 42302

TELEPHONE #: 270-687-8641 EMAIL: schepersjg@owensboro.org
2. AGENT: Liz Bullock
Give name of person(s) submitting application, if other than owner.
ADDRESS: 3250 Blazer Parkway, Lexington, KY 40509

TELEPHONE #: 859-264-7500 EMAIL: lbullock@cdpengineers.com
3. ENGINEER: Liz Bullock P.E. NUMBER: 23126
Contact Division of Water if waiver can be granted.
TELEPHONE #: 859-264-7500 EMAIL: lbullock@cdpengineers.com
4. DESCRIPTION OF CONSTRUCTION: _____
Describe the type and purpose of construction and describe stream impact
The project includes the construction of a new detention basin and reconfiguration of an existing basin. Both detention basins will have wetland functions and characteristics, incorporating the flow from Devins Ditch into the proposed wetland system. The water levels in the detention basin will be controlled by a pump station that will pump excess flow into Persimmons Ditch, which is an adjacent stream. The proposed detention basin is ~8.3 acres (775 ft X 470 ft). The existing basin is ~21.2 acres (1700 ft by 540 ft). The proposed basin has a poor quality intermittent stream that will be filled and the existing basin has a 4 ft wide concrete flow path that was built during construction of the existing basin.
5. COUNTY: Daviess NEAREST COMMUNITY: Owensboro
6. USGS QUAD NAME Owensboro West LATITUDE/LONGITUDE: 87°09'18.31" W; 37°45'48.5" N
7. STREAM NAME: Devins Ditch WATERSHED SIZE (in acres): ~400 acres
8. LINEAR FEET OF STREAM IMPACTED: 793 ft poor quality intermittent stream; existing basin has 1681 ft of concrete to convey flow from Devins Ditch into the sanitary sewer network.
9. DIRECTIONS TO SITE: From Louisville, take I-64 W into Indiana (71 miles). Take exit 57 for US-231 and turn left at US-231S (towards Dale). Go approximately 33 miles before turning right onto US 60 W. Continue of US 60W to the Owensboro (US 60) Bypass. Turn left onto the bypass and continue to the west side of Owensboro. Exit right onto W. Parrish Avenue and travel 0.5 miles. Turn left onto McFarland Avenue. Travel 0.2 miles and turn left onto Carter Road. The project is 0.25 miles on the left.

10. IS ANY PORTION OF THE REQUESTED PROJECT NOW COMPLETE? ☐ Yes ☒ No If yes, identify the completed portion on the drawings you submit and indicate the date activity was completed. DATE: _____
11. ESTIMATED BEGIN CONSTRUCTION DATE: May 2009
12. ESTIMATED END CONSTRUCTION DATE: June 2010
13. HAS A PERMIT BEEN RECEIVED FROM THE US ARMY, CORPS of ENGINEERS? ☒ Yes ☐ No If yes, attach a copy of that permit.
14. THE APPLICANT *MUST* ADDRESS PUBLIC NOTICE:

(a) PUBLIC NOTICE HAS BEEN GIVEN FOR THIS PROPOSAL BY THE FOLLOWING MEANS:

- ____ Public notice in newspaper having greatest circulation in area (provide newspaper clipping or affidavit)
____ Adjacent property owner(s) affidavits (Contact Division of Water for requirements.)

(b) X I REQUEST WAIVER OF PUBLIC NOTICE BECAUSE:

Minimal environmental impacts.

Contact Division of Water for requirements.

15. I HAVE CONTACTED THE FOLLOWING CITY OR COUNTY OFFICIALS CONCERNING THIS PROJECT:

Joe Schepers – Owensboro City Engineer; Dean Behnke – Regional Water Resource Agency

Give name and title of person(s) contacted and provide copy of any approval city or county may have issued.

16. LIST OF ATTACHMENTS:

List plans, profiles, or other drawings and data submitted. Attach a copy of a 7.5 minute USGS topographic map clearly showing the project location.

404 application, USGS topographic map showing project location, project area photos, and preliminary JD form

17. I, Joe Schepers (owner) CERTIFY THAT THE OWNER OWNS OR HAS EASEMENT RIGHTS ON ALL PROPERTY ON WHICH THIS PROJECT WILL BE LOCATED OR ON WHICH RELATED CONSTRUCTION WILL OCCUR (for dams, this includes the area that would be impounded during the design flood).

18. REMARKS: Devins Ditch was impacted by the construction of the US 60 Bypass and Audubon Parkway interchange.

The current flowpath of Devins Ditch is no longer represented by the USGS topographic map. We are currently finalizing negotiations for easements

I hereby request approval for construction across or along a stream as described in this application and any accompanying documents. To the best of my knowledge, all the information provided is true and correct.

SIGNATURE: Joseph S. Schepers

Owner or Agent sign here. (If signed by Agent, a Power of Attorney should be attached.)

DATE: 3/27/09

SIGNATURE OF LOCAL FLOODPLAIN COORDINATOR:

Jim Mischel

Permit application will be returned to applicant if not properly endorsed by the local floodplain coordinator.
(Mr. Jim Mischel; PO Box 732; Owensboro, KY 42302)

DATE: 12/5/08

SUBMIT APPLICATION AND ATTACHMENTS TO:

Floodplain Management Section
Division of Water
14 Reilly Road
Frankfort, KY 40601

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT (33 CFR 324)	OMB APPROVAL NO. 0718-0803 Expires December 31, 2004
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Public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and the to the office of Management and Budget, Paperwork Reduction Project (0718-0803), Washington DC 20503. Respondents should be aware that notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of these addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research and Sanctuaries Act, Section 103, 33 USC 1413. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see example drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
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(ITEMS TO BE FILLED BY APPLICANT)

1. APPLICANT'S NAME City of Owensboro Mr. Joe Schepers	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) Liz Bullock, PE CDP Engineers
2. APPLICANT'S ADDRESS 101 East 4th Street Owensboro, KY 42302	9. AGENT'S ADDRESS 3250 Blazer Parkway Lexington, Kentucky 40509
7. APPLICANT'S PHONE NOS. WAREA CODE a. Residence b. Business (270) 687-8641	10. AGENT'S PHONE NOS. WAREA CODE a. Residence b. Business (859) 264-7500

11. STATEMENT OF AUTHORIZATION

I hereby authorize Liz Bullock to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

Joseph J. Schepers 11/24/08
APPLICANT'S SIGNATURE DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions) Devins Ditch Separation Project, Owensboro, Kentucky	
13. NAME OF WATERBODY, IF KNOWN (if applicable) Devins Ditch - Drainage area is ~400 acres	14. PROJECT STREET ADDRESS (if applicable) Owensboro, Kentucky
15. LOCATION OF THE PROJECT Davies KY COUNTY STATE	

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, (see instructions)

The project is located east of US 60 at the intersection of W 5th Street and Earls Lane. 87°09'18.31" W Longitude, 37°45'48.5" N Latitude

17. DIRECTIONS TO THE SITE

From Louisville, take I-64 W take into Indiana (71 miles). Take exit 57 for US-231 and turn left at US-231S (towards Dale). Go approximately 33 miles before turning right onto US 60 W. Continue on US 60W to the Owensboro (US 60) Bypass. Turn Left onto the bypass and continue to the west side of Owensboro and exit right at the W. Parrish Ave. Exit and travel 1/2 mile on W. Parrish and exit left onto McFarland Ave. Travel 0.2 miles and then left onto Carter Road. Travel 1/4 mile and project is on the left.

18. Nature of Activity (Description of project, include all features)

The project includes the construction of a new detention basin and reconfiguration of the existing basin into a stormwater wetland. Both detention basins will have wetland functions and characteristics, incorporating the flow from Devins Ditch into the proposed wetland system. The water levels in the detention basin will be controlled by a pump station that will pump excess flow into Persimmons Ditch, which is an adjacent stream. A Plan View of the project is attached.

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

This project will implement some of the general design concepts prepared in the 1999 Stormwater Master Plan. The purpose of this project is to reduce flooding at Carter Road and the surrounding neighborhood and separate stormwater overflow from the existing sanitary sewer network. Currently Devins Ditch flows into an existing detention basin that discharges into the combined sewer system at Carter Road. The flow is ultimately discharged into the Ohio River after being treated at the wastewater treatment plant in Owensboro. Construction is scheduled to begin in March 2000 and completion is anticipated by May 2010.

20. Reason(s) for Discharge

The proposed basin will fill 793 feet of existing poor quality intermittent stream that has been severely impacted by land use practices for many years. The existing basin has 1681 feet of concrete to convey flow from Devins Ditch into the sanitary sewer network. Pictures are attached that illustrate the existing system.

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

21. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards

For the proposed basin, native clay and loam soils that are available onsite will be used to fill Devins Ditch (793 ft * 6 ft * 3 ft = 529 CV). In the existing basin, the concrete will be removed that currently conveys the flow from Devins Ditch into the sanitary sewer network.

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

For the proposed basin 0.11 acre (793 ft * 6 ft) of Devins Ditch will be filled and incorporated into the stormwater wetland.

23. Is Any Portion of the Work Already Complete? Yes ☐ No ☒ IF YES, DESCRIBE THE COMPLETED WORK

24. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list).

City of Owensboro
Joe Schepers
101 East 4th Street
Owensboro, KY 42302

2288 Properties, LLC
419 Medina Road
Medina, OH 44256

Bill and Rosina Clark
2154 Fieldcrest Dr
Owensboro, KY 42301

25. List of Other Certifications or Approvals/Denials Received from other Federal, State or Local Agencies for Work Described in this Application.

AGENCY	TYPE OF APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
KY NREPC, Division of Water	Water Quality Certification		To be submitted		
	KPOES General Permit		To be submitted		

Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.


SIGNATURE OF APPLICANT

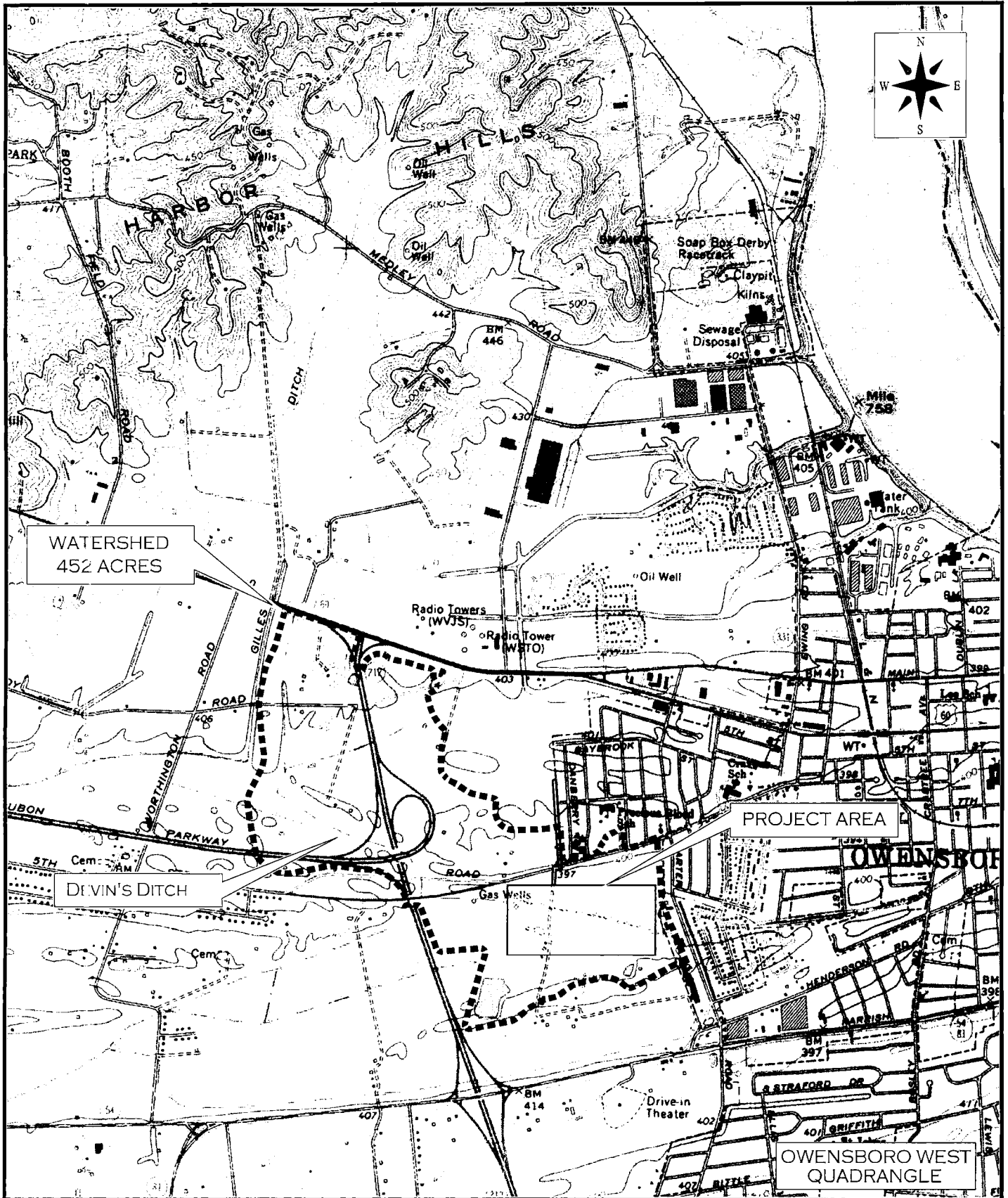
11/24/03
DATE


SIGNATURE OF AGENT

11/24/03
DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department of agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.



DEVIN'S DITCH IMPROVEMENTS PROJECT

CITY OF OWENSBORO
101 EAST 4TH STREET
OWENSBORO, KY 42303

DATE: 11/03/2008

SCALE: 1"=2000'



3250 Blazer Pkwy Lexington KY 40509 t 859.264.7500 f 859.264.7501



Downstream view of existing basin illustrating concrete flow path.



Upstream view of existing basin showing concrete flow path.



Upstream view of existing basin showing culvert where flow enters the basin.



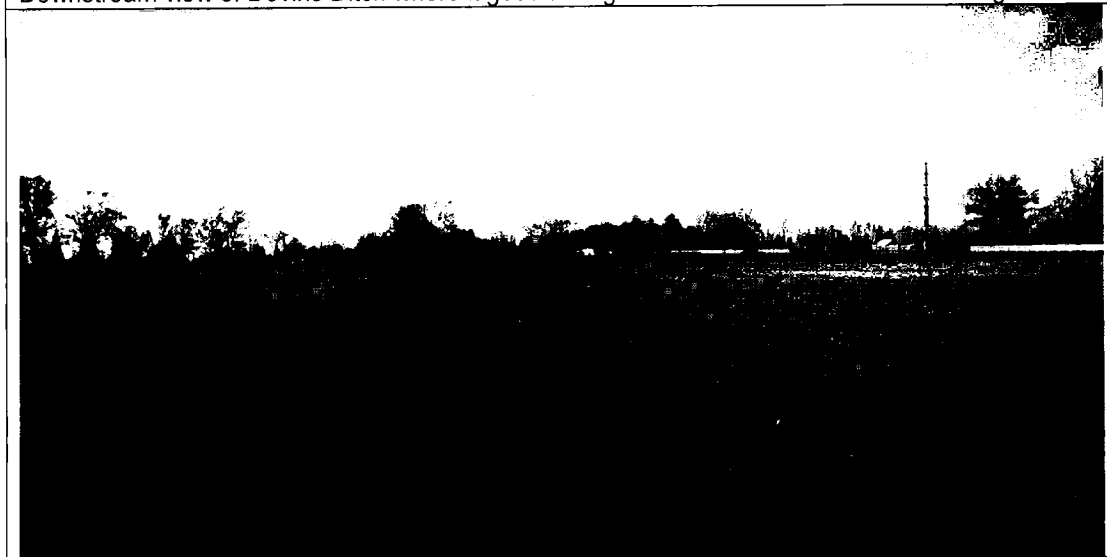
Upstream view of existing basin showing culvert where flow enters the basin.



Downstream view of Devins Ditch where it goes through the culvert and enters the existing basin.



Downstream view of Devins Ditch where it goes through the culvert and enters the existing basin.



Upstream view of Devins Ditch before entering the existing basin.

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 11/19/08

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Liz Bullock, PE, CDP Engineers, 3250 Blazer Parkway, Lexington, KY 40509

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Louisville District,
Devins Ditch Separation Project, Owensboro, Kentucky,

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES
AT DIFFERENT SITES)**

State: KY County/parish/borough: Daviess City: Owensboro

Center coordinates of site (lat/long in degree decimal format): Lat. °

Pick List, Long. ° **Pick List**. See table below

Universal Transverse Mercator:

Name of nearest waterbody: Nearest TNW is the Ohio River

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 793 linear feet: 6 width (ft) and/or 0.11 acres.

Cowardin Class: NA

Stream Flow: Intermittent

Wetlands: NA acres.

Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: NA

Non-Tidal: NA

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☐ Office (Desk) Determination. Date:

☒ Field Determination. Date(s): October – November, 2008

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to

request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "*may be*" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply)

- checked items should be included in case file and, where checked and requested, appropriately reference sources below:

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Location map provided on USGS topo.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - ☐ Office concurs with data sheets/delineation report.
 - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps: .
- ☐ Corps navigable waters' study: .
- ☐ U.S. Geological Survey Hydrologic Atlas: .
 - ☐ USGS NHD data.
 - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: Owensboro West 1" = 2000'.
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☐ National wetlands inventory map(s). Cite name: .
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☐ Aerial (Name & Date): .
or ☒ Other (Name & Date): Site photographs taken 10/08 & 11/08.
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Other information (please specify): .

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of
Regulatory Project Manager
(REQUIRED)

Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)

Devins Ditch Separation Project

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1 Begin	37° 45'49.12"	87° 09'27.97"	Intermittent	793 linear feet	NA
1 End	37° 45'48.5"	87° 09'18.31"			
Detention Basin - Begin	37° 45'48.5"	87° 09'18.31"		NA	NA
Detention Basin - End	37° 45'44.91"	87° 08'57.69"			